

REMARKS

Claims 1-73 were pending in the application when the Office Action was mailed on August 9, 2010. Claims 1-4, 6, 7, 22, 24, 26-33, 35, 36, 66-73 were rejected. Applicant has amended claims 9, 27, 66-68; canceled claim 69; and has not added any claims. Accordingly, claims 1-68 and 70-73 are now pending.

The previously pending claims were rejected as follows:

- A. Claims 1-4, 6, 7, 9, 11, 12, 27-31, 36, 66, and 67 were rejected under 35 U.S.C. § 103(a) over U.S. Patent Application Publication No. 2003/0171984 ("Wodka"), in view of U.S. Patent Application Publication No. 2004/0215514 ("Quinlan") and U.S. Patent Application Publication No. 2003/0229540 ("Algiene");
- B. Claims 10, and 35 were rejected under 35 U.S.C. § 103(a) over Wodka, in view of Quinlan, Algiene, and U.S. Patent No. 7,006,983 ("Packs");
- C. Claim 22 was rejected under 35 U.S.C. § 103(a) Wodka, Quinlan, Algiene, and U.S. Patent Application Publication No. 2003/0220839 ("Nguyen");
- D. Claim 24 was rejected under 35 U.S.C. § 103(a) over Wodka, Quinlan, Algiene, and U.S. Patent No. 5,202,826 ("McCarthy");
- E. Claim 26 was rejected under 35 U.S.C. § 103(a) over Wodka, Quinlan, Algiene, and U.S. Patent No. 6,185,541 ("Scroggie");
- F. Claim 32 was rejected under 35 U.S.C. § 103(a) over Wodka, Quinlan, Algiene, and U.S. Patent No. 7,221,258 ("Lane");
- G. Claims 68, 69, 72, and 73 were rejected under 35 U.S.C. § 103(a) over Wodka, Quinlan, Algiene, and U.S. Patent Application Publication No. 2004/0143502 ("McClung"); and
- H. Claims 70, and 71 were rejected under 35 U.S.C. § 103(a) over Wodka, Quinlan, Algiene, McClung, and U.S. Patent No. 6,587,835 ("Treyz").

Applicant respectfully traverses these rejections.

Finality Is Improper

Applicant respectfully submits that the Office Action should not have been made final. According to § 706.07(a) of the MPEP:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

(Emphasis added.) The present Office Action introduced new ground of rejection of claim 1 by rejecting it over Quinlan and Algiene. Although applicant amended claim 1 in their previous response, the new ground of rejection was not necessitated by the amendment because claim 1 merely incorporated features previously recited by claim 5. (See page 12 of applicant's response filed on April 29, 2010.) Quinlan and Algiene were not previously asserted against claim 5. As such, applicant respectfully requests that the finality of the present Office Action dated August 9, 2010, be withdrawn.

Quinlan cannot be combined with other references to reject applicant's claims

Quinlan's technique is directed to automating the process consumers undertake to redeem coupons and rebates. Oftentimes, consumers need to cut out and provide an original UPC barcode portion of a product's packaging to receive the rebate. In such cases, the manufacturer's rebate is conditioned on receiving the original UPC barcode. Consumers sometimes delay redeeming rebates because they may want to return a purchased item. When consumers desire to try a product out or may be considering returning it, they delay submitting the rebate request because once a UPC barcode is cut out from a product's packaging, the product cannot be returned to the point of purchase. Accordingly, Quinlan's technique enables a consumer to delay requesting a

rebate. (See, e.g., paragraph 17.) Thus, Quinlan's technique teaches away and cannot be combined with other references to reject applicant's claims. See, e.g., MPEP § 2145(X)(D). Moreover, using Quinlan in a system that provides real-time or near real-time rebates would destroy Quinlan's intended purpose and so again, it cannot be combined with other references to reject applicant's claims. See, e.g., MPEP § 2143.01(V). Applicant thus respectfully requests reconsideration of the claim.

The Office Action does not identify any reference as teaching or suggesting "real-time rebate offer" or "near real-time rebate offer"

Without conceding the merits of the rejections and only to advance prosecution, applicant has amended claims 27, 66, and 67 to now recite "wherein said manufacturer's rebate is a real-time manufacturer's rebate offer or a near real-time manufacturer's rebate offer." As disclosed in applicant's specification (see, e.g., paragraphs 4 and 80 of U.S. Patent Pub. No. 2005/0149387), in some embodiments a manufacturer's rebate can be a real-time rebate offer or a near real-time rebate offer. As an example, a manufacturer may alert a retailer of a "one-day-only" rebate on the same day that the rebate is made available. In contrast, Wodka is directed to coupon-based rebates in which rebates are made available in advance of a consumer's arrival at a store (e.g., the consumer presents or scans the coupon to avail of the rebate). In Wodka's technique, when a real-time or near-real time rebate offer is made available by a manufacturer, the consumer is unlikely to have a coupon identifying the rebate. A manufacturer may offer a real-time or near-real time rebate, e.g., to clear shelves for a new version of the product. Applicant thus respectfully requests reconsideration of the claims.

McClung neither teaches nor suggests a third computer system

Claim 69 previously made clear that a competitor is provided an opportunity to respond to a different manufacturer's rebate. According to the Office Action, McClung discloses this feature at paragraph 9. That paragraph discloses that a vendor's system monitors competitive vendors. Vendors are not the same as manufacturers, and

manufacturers generally do not announce their prices publicly. Moreover, paragraph 9 does not disclose how the price matching is performed or how competitors are monitored on a real-time basis. Applicant has incorporated into claim 68 the features previously recited by claim 69 and has clarified the claimed technology, and respectfully requests reconsideration of claim 68 and its dependent claims.

Conclusion

Applicant has amended claim 9 to correct a minor typographical error. Applicant does not concede any rejection not specifically responded to above and reserves their rights to do so in the future. The dependent claims are allowable for at least the reasons as the claims on which they depend.

Based on these amendments and remarks, applicant respectfully requests early allowance of this application. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-6478.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 320529567US from which the undersigned is authorized to draw.

Dated: October 8, 2010

Respectfully submitted,

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